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## **South Florida Water Management District**

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### **GOVERNING BOARD MEETING MINUTES**

June 10, 2010

9:00 AM

District Headquarters - B-1 Auditorium  
3301 Gun Club Road  
West Palm Beach, FL 33406

**Members Present:**

**Sandy Batchelor**  
**Charles Dauray**  
**Kevin Powers**

**Eric Buermann, Chair**  
**Shannon Estenoz**  
**Patrick Rooney**

**Joe Collins**  
**Jerry Montgomery**  
**Glenn Waldman**

**1. Call to Order** - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 9:03 a.m.

Note: Shannon Estenoz left the meeting at 11:10 a.m.

Note: Charles Dauray left the meeting at 1:00 p.m.

**2. Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board

Jerry Montgomery led the group in the Pledge of Allegiance.

**3. Lieutenant General Robert L. Van Antwerp, Jr., Chief of Engineers, U.S. Army Corps of Engineers** - Eric Buermann, Chairman, Governing Board

Chair Buermann introduced Lieutenant General Robert L. Van Antwerp, Jr., Chief of Engineers.

Lieutenant General Robert L. Van Antwerp, Jr. reported on the Project Partnership Agreement for Site 1 and the protection of the ecosystem in south Florida. He said the agency is making an incredible difference in the restoration of the Everglades and how it functions. He said the Everglades is a national asset.

Public Comment: Sylvia Perlizza, Superintendent, Arthur R. Marshall Loxahatchee Wildlife Refuge, commented on the importance of this project and said this will be a great benefit to the Loxahatchee Wildlife Refuge for water management.

There was ceremonial signing of the Project Partnership Agreement for Site 1 Comprehensive Everglades Restoration Project (CERP) with the U.S. Army Corps of Engineers and the South Florida Water Management District.

4. **Employee Recognitions** - Presented by Carol Wehle, Executive Director  
April Employee of the Month - Kevin Carter  
  
May Employee of the Month - Marcia Kivett  
  
June Employee of the Month - Brenda Mills  
  
May Team of the Month - The Year Round Landscape Irrigation Rulemaking Team  
  
June Team of the Month - The St. Lucie Water Reservation Team  
  
30 Years of Service - Gaye Rohde and Patti Nicholas  
  
35 Years of Service - Susan Coughanour

Carol Wehle, Executive Director, recognized the April Employee of the Month, May Employee and Team of the Month, June Employee and Team of the Month, two 30-year service awards and one 35-year service award.

5. **Distinguished Former Employee Awards** - Presented by Carol Wehle, Executive Director (Time certain 11:30 AM)

Ms. Wehle recognized former distinguished employees: John Adams, Thomas Fontaine, Robert Hamrick, James B. Jackson, and Richard Rogers. (This award was given posthumously and accepted by Mr. Rogers' wife and daughter.)

6. **ALS Association Contribution** - Presented by Dorothy Bradshaw, Jeffrey Cartwright and Angela Simpson to ALS Regional Director Donna Valin Ghioto

Dorothy Bradshaw, Deputy Department Director, Procurement, Jeffrey Cartwright, Budget Analyst, and Angela Simpson, Scientist 3, presented a check in the amount of \$4200 to Donna Valin Ghioto of the ALS Foundation.

7. **Landscape Challenge Plaque Presentation** - Presented by Merry Mott, Director of Industry Certifications, Florida Nursery Growers & Landscape Association

Merry Mott, Director of Industry Certifications, Florida Nursery Growers & Landscape Association, presented a plaque to the District for hosting the annual landscape challenge.

8. **Agenda Addendum** - Jacki McGorty, District Clerk

Jacki McGorty, District Clerk, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. Based upon that authority, the Chairman has determined that good cause exists to make certain changes to the Agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed. These changes have been listed in the Governing Board Addendum available at the entrance to this meeting room.

Ms. McGorty also announced that Consent Agenda Item 30 was deferred until next month, Consent Agenda Item 16, Page 6 of the Right of Way agenda, waiver of criteria for Lykes Brothers, Inc., was deleted off the agenda and Regulatory Consent Agenda Item 15, Page 7, No. 2, Landscape Nursery Inc., (WU Denial) was withdrawn from the agenda.

**9. Abstentions by Board Members from items on the Agenda**

There were no abstentions by Board members.

**10. Water Resource Advisory Commission (WRAC) Report - Shannon Estenoz, Chair**

Ms. Estenoz, Chair, reported on the WRAC meeting which was held on June 3, 2010 in Miami Beach.

Motion made by Shannon Estenoz, seconded by Joe Collins recommending Gene Duncan (replacing Dexter Lehtinen), Director, Water Resources as the Miccosukee Tribe's representative to the WRAC; and Joe Capra (replacing Melissa Meeker), President, Captec Engineering, as WRAC members. Vote called. Voting yes: Shannon Estenoz, Joe Collins, Charles Dauray, Sandy Batchelor, Kevin Powers, Patrick Rooney, Eric Buermann, Jerry Montgomery, Glenn Waldman. Motion passed.

Ms. Estenoz reported WRAC unanimously agreed to communicate strong support for expedited implementation of dispersed water storage projects north and south of Lake Okeechobee on public and private lands.

There was also WRAC discussion on the Adaptive Protocols for Lake Okeechobee operations. WRAC will bring recommendations to the Governing Board in July or September.

**11. Project & Lands Committee Report - Pat Rooney, Chair**

Pat Rooney reported on the Project and Lands Committee meeting that was held in West Palm Beach on June 9th, 2010. Issues discussed were the Fisheating Creek Watershed Project, Twin Sisters Treatment Area potential Public Private Partnership, potential surplus lands, Rotenberger Wildlife Management area restoration activities, new Alternative Technology Assessment and an update on the C-44 project.

**Consent Agenda**

**12. Public Comment on Consent Agenda**

Public Comment: Rosa Durando, citizen, commented on Consent Agenda Item 28 and said staff provided backup material and an explanation on this item. Ms. Durando then commented on Agenda Item 40 and 41 and requested policy on using lead shot for small game hunts. She said lead shot should be prohibited.

Mr. Olliff said staff will pass along the comments made regarding the type of shot used (lead vs. steel) to the Fish and Wildlife Commission (FWC) and will follow-up with impacts from interim uses on state lands.

Public Comment: Alex Larsen, citizen, supports keeping surplus land. She also said constituents need a better understanding of agenda items.

Ruth Clements explained the surplus land issue was addressed at the WRAC subcommittee and WRAC in April and recommended the public attend the WRAC meetings.

Public Comment: Sharon Waite, citizen, commented on Consent Agenda Item 18, surplus land, and hopes landowners are not profiting from the District's land.

Mr. Rooney requested more plain language titles on the agenda.

### **13. Pull Items for Discussion from Consent Agenda**

There were no items pulled from the Consent Agenda for discussion.

### **14. Board Comment on Consent Agenda**

#### **Regulatory Matters**

### **15. Denials**

Consent Agreements

Conservation Easement Amendments and Releases

Page 7 No 1 Lakeshore Landings (WU Denial): **Postponed**

Page 8 No 1 Canoe Creek Grove (WU Denial): **Postponed**

Page 9 No 1 Belantica Gardens FKA Atlantica Apartments (ERP Denial): **Postponed**

Page 10 No 1 Charlie's Mitsubishi (ERP Denial): **Postponed**

### **16. Right of Way Occupancy New Permits**

Right of Way Occupancy Permit Modifications

Right of Way Permit Requests With Waiver of District Criteria

Relaxation of Standards as Allowed under District Rule 40E-6.011(9), FAC

Consent Agenda Item 16, Page 6 of the Right of Way agenda, waiver of criteria for Lykes Brothers, Inc. was deleted of the agenda.

## **Everglades Restoration and Capital Projects**

- 17. 2010-600** A Resolution of the Governing Board of the South Florida Water Management District to approve releasing road easement interests containing 0.90 acres, more or less, to the underlying fee owner, located within Orangebrook Estates (n/k/a/ Valencia Landings) Subdivision, in Section 1, Township 43 South, Range 28 East, and in Section 6, Township 43 South, Range 29 East, Hendry County, subject to satisfaction of certain terms, conditions and requirements, including conveyance of a replacement easement to the District; repealing Resolution No. 2009-602; providing an effective date. (Linda Schindeler, ext. 6838)
- 18. 2010-601** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 1097.04 acres, more or less, in Palm Beach, Highlands, Miami-Dade, Osceola and Martin counties, together with any structures and improvements and personal property appurtenant thereto and approve conveying said properties to another governmental entity upon terms and conditions approved by the Governing Board or conveying to the public for bid and to be sold for the highest price obtainable but not less than the appraised value subject to conditions; providing an effective date. (Ruth Clements, ext. 6271)
- 19. 2010-602** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 2.80 acres, more or less, for the Kissimmee Chain of Lakes Project, in Polk County, in the amount of \$113,022, and associated costs, for which ad valorem (Capital Projects Okeechobee) and dedicated (Florida Forever Trust Fund) funds are budgeted; providing an effective date. (Bob Schaeffer, ext. 2985)
- 20. 2010-603** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from the Florida Forever Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 2.80 acres, more or less, for the Kissimmee Chain of Lakes Project, in Polk County, in the amount of \$113,022, and associated costs; providing an effective date. (Bob Schaeffer, ext. 2985)
- 21. 2010-604** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three year work order contract, subject to successful negotiations with EAA Research & Management, Inc., one of three firms selected under Request for Proposal 6000000345 for Environmental Laboratory Operations Support Services, in an amount not to exceed the total funding of \$900,000 for all three contracts (4600002125, 4600002126, 4600002127), for which \$104,737 in ad valorem and dedicated funds are subject to Governing Board approval of the FY11 budget; and the remainder is subject to Governing Board approval of the FY12-13 budgets; providing an effective date. (Contract Number 4600002125) (Richard Walker, ext. 4525)

- 22. 2010-605** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three year work order contract, subject to successful negotiations with Sutron Corporation, one of three firms selected under Request for Proposal 6000000345 for Environmental Laboratory Operations Support Services, in an amount not to exceed the total funding of \$900,000 for all three contracts (4600002125, 4600002126, 4600002127), for which \$104,737 in ad valorem and dedicated funds are subject to Governing Board approval of the FY11 budget; and the remainder is subject to Governing Board approval of the FY12-13 budgets; providing an effective date. (Contract Number 4600002126) (Richard Walker, ext. 4525)
- 23. 2010-606** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three year work order contract, subject to successful negotiations with Laboratory Data Consultants FL, Inc., one of three firms selected under Request for Proposal 6000000345 for Environmental Laboratory Operations Support Services, in an amount not to exceed the total funding of \$900,000 for all three contracts (4600002125, 4600002126, 4600002127), for which \$104,737 in ad valorem and dedicated funds are subject to Governing Board approval of the FY11 budget; and the remainder is subject to Governing Board approval of the FY12-13 budgets; providing an effective date. (Contract Number 4600002127) (Richard Walker, ext. 4525)
- 24. 2010-607** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 0.23 acre, more or less, for the Lakeside Ranch STA Project, in Martin County, in the amount of \$23,797 and associated costs, for which dedicated funds (Save Our Everglades Trust Fund) are budgeted; approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition; providing an effective date. (Barbara Katz, ext. 6837)
- 25. 2010-608** A Resolution of the Governing Board of the South Florida Water Management District requesting release of funds from the Save Our Everglades Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 0.23 acre, more or less, in Martin County, Florida, for the Lakeside Ranch STA Project, in the amount of \$23,797, and associated costs; providing an effective date. (Barbara Katz, ext. 6837)
- 26. 2010-609** A Resolution of the Governing Board of the South Florida Water Management District approving the purchase of land interests containing 0.63 acre, more or less, in Okeechobee County, in the amount of \$2,500, and associated costs; for which ad valorem funds, Okeechobee Basin, have been budgeted; approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition; providing an effective date. (Barbara Katz, ext. 6837)

27. **2010-610** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 226-day contract with Hardrives, Inc., the lowest responsive and responsible bidder, for the CERP C-44 Reservoir/Stormwater Treatment Area Project's C-132 and northern C-133 canal maintenance in the amount of \$970,000 for which dedicated funds are budgeted in the Okeechobee Basin Capital Fund as a result of the January 2010 budget transfer approved by the Governing Board; providing an effective date. (Contract Number 4600002143) (John Mitnik, ext.3748)

#### **Executive Office**

28. **2010-611** A Resolution of The South Florida Water Management District Governing Board; authorizing and directing execution and delivery of a Joinder to Agreement and Declaration of Trust Creating and Establishing the Florida Local Government Investment Trust; and providing an effective date. (Paul E. Dumars, Sr., ext. 6212)
29. **2010-612** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2009-2010 budget as shown on the attachment hereto; providing an effective date (Mike Smykowski, ext. 6295).
31. **2010-614** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit to enforce District statutes, orders, and rules and to pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Images at Pembroke Pointe Homeowners Association, Inc., and any other appropriate or necessary parties, in the Broward County Circuit Court or other appropriate forum, regarding the unauthorized use of water occurring at property located in Section 18, Township 51, Range 41, in Pembroke Pines, Broward County, Florida. (Jennifer Bokankowitz, ext. 2258)
33. **2010-616** A Resolution of the Governing Board of the South Florida Water Management District to authorize approval of an amendment to contract 4600001266 with Carlton Fields, P.A. for legal services for the Teitelbaum v SFWMD (Bird Drive), Case No. 04-21282 CA 15. This amendment will provide an additional \$177,275.00 for which ad valorem funds are budgeted; providing an effective date. (Edward Artau, x6431)

#### **Regulatory and Public Affairs**

- 34.** Authorize publication of the Notice of Rule Development to amend Chapters 40E-1, 40E-4, 40E-40, 40E-41, 40E-63, 40E-400, F.A.C., and the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District to: 1) update and correct titles, references and citations; 2) correct typographical errors and other minor corrections; 3) delete obsolete forms and other documents; 4) update rules for consistency with statutory amendments; 5) update process for submitting forms and other documents to the District; 6) repeal rules that are unnecessary because they are duplicative of rules set forth in the Districts general rules, Chapter 40E-1, F.A.C.; 7) replace illegible maps in the Florida Administrative Code and renumber Figures for consistency; 8) update rule references from surface water management to environmental resource permitting; 9) delete rule titles following rule numbers within text; 10) correct effective date of forms to be consistent with effective date of rule; and 11) update rules incorporating materials by reference to conform to the Department of States rule regarding materials incorporated by reference (Anita Bain, ext 6866)
- 35.** Authorize publication of Notice of Rulemaking in the Florida Administrative Weekly (FAW) to amend Rules 40E-63.400, 40E-63.401, 40E-63.402, 40E-63.404, 40E-63.406, 40E-63.415, 40E-63.420, 40E-63.430, and 40E-63.444, F.A.C., repeal Rules 40E-63.432, 40E-63.434, 40E-63.436, 40E-63.440, 40E-63.442, 40E-63.450, 40E-63.452, 40E-63.454, 40E-63.456, 40E-63.458, 40E-63.460, and 40E-63.470, F.A.C., and new Rules 40E-63.435, 40E-63.437, 40E-63.438, 40E-63.439, 40E-63.441, 40E-63.443, 40E-63.446, 40E-63.461, 40E-63.462, and 40E-63.464, F.A.C., and the materials incorporated by reference in Rule 40E-63.404, F.A.C., regarding the Everglades Regulatory Program: C-139 Basin (Pam Wade, ext. 6901).
- 36.     2010-623**
- A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an interagency agreement with the Southwest Florida Water Management District to designate to the South Florida Water Management District all regulatory responsibilities for environmental resource permitting under Part IV of Chapter 373, Florida Statutes, and Water Quality, for those activities that are associated with Rafter T Ranch Environmental Restoration Project located in Highlands County; providing an effective date. (Benita Whalen, ext 2957)
- 37.     2010-624**
- A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an interagency agreement with the Southwest Florida Water Management District to designate to the South Florida Water Management District all regulatory responsibilities for environmental resource permitting under Part IV of Chapter 373, Florida Statutes, and Water Quality, for those activities that are associated with Santa Rosa Ranch Wetlands Restoration Project located in Highlands County; providing an effective date. (Benita Whalen, ext 2957)



38. **2010-617** A Resolution of the Governing Board of the South Florida Water Management District approving the Joint Agreement between the McDaniel Reserve Realty Holding, LLC. and the South Florida Water Management District for the purpose of implementing a Best Management Practices Program to reduce phosphorus in stormwater discharges to the Everglades Protection Area. (Pamela Wade, ext 6901)

#### **Operations and Maintenance**

39. **2010-618** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 year work order contract with Toler Enterprises Incorporated, the lowest responsive and responsible bidder, for Side Slope Mowing Services within the region of the Ft. Lauderdale Field Station, in the amount of \$508,586.20 for which ad valorem funds of \$36,574 are budgeted; and the remainder is subject to Governing Board approval of the FY11-FY13 budgets; providing an effective date. (Contract Number 4600002139) (Craig VanAuken, ext. 4838)
40. **2010-619** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish vacant undesignated lands consisting of approximately 1100 acres in the C-23/24 Project Area, St. Lucie County, as a Public Small Game Hunting Area for the 2010-11 Hunting Season and manage Small Game Hunting on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)
41. **2010-620** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish vacant undesignated lands consisting of approximately 100 acres in the Frog Pond Detention project, Miami-Dade County, as a Public Small Game Hunting Area for the 2010-11 and subsequent hunting seasons and manage said lands solely as a dove field, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)

#### **42. Board Vote on Consent Agenda**

Motion made by Joe Collins, seconded by Kevin Powers to Approve the following item(s): 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41

Vote called. Voting yes: Joe Collins, Kevin Powers, Sandy Batchelor, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney, Glenn Waldman. Not present: Shannon Estenoz. Motion passed.

#### Workshop Agenda

#### **43. State of Water Resources**

**A) Water Conditions & Water Supply Report** - Susan Sylvester, Director, Operations Control & Hydro Management Department (ext. 6152)

**B) Ecological Conditions Report** - Linda Crean, Water Quality Monitoring Division Director, Restoration Sciences Department (ext. 4745).

**C) US Army Corps of Engineers' Lake Okeechobee Report** - LTC Michael Kinard, Deputy District Commander, South Florida, Jacksonville District, US Army Corps of Engineers

Susan Sylvester, Director, Operations Control & Hydro Management Department, presented the water conditions and water supply report, the precipitation forecast and the Lake Okeechobee Position Analysis.

Mr. Dauray commented on the discharges into the estuaries and the possibility of water storage in the sugarcane growing areas.

Ms. Reppen said staff will provide a follow up to the Governing Board regarding additional dispersed water storage opportunities.

Linda Crean, Director, Water Quality Monitoring Division, reported on the salinity levels of the Caloosahatchee and the St. Lucie Estuaries, the littoral edge vegetation improvement as a result of lower lake levels, the re-vegetation of Lake Okeechobee, STA enhancement efforts and snail kite nestings.

Susan Canner, USACE, provided the USACE's Lake Okeechobee report and said the Corps appreciates the continued coordination efforts with District staff regarding the pulse releases into the estuaries.

Public Comment: Rosa Durando, citizen, commented on the Snail Kite nesting and the Lake Okeechobee dredging project. The project is a City of Pahokee project and staff will follow up with Ms. Durando and the Governing Board once additional information is received.

Mr. Powers asked that the Board be copied on any information pertaining to this issue.

#### **Everglades Restoration and Capital Projects**

#### **45. Water Quality Standards: Assessing the Quality of Florida's Water** - Kirk Burns, Sr. Practice Expert, Office of Counsel (ext. 6546)

Continuing the briefings on Water Quality, Kirk Burns, Sr., Practice Expert, Office of Counsel, presented information on the two types of water quality criteria, numeric and narrative. Mr. Burns provided examples of numeric and narrative water quality criteria.

Mr. Burns also reviewed the importance of monitoring water conditions, and assessing the quality of Florida's waters which are classified as impaired and unimpaired. Impaired water body's require total maximum daily loads (TMDLs) which is the maximum amount of a pollutant that a water body can assimilate from all sources without exceeding water quality standards. Mr. Burns reviewed the TMDL process and provided examples of TMDLs.

#### **Regulatory and Public Affairs**

**46. Overlap in Consumptive Use Permits with More Than One Source of Water - Dean Powell, Acting Director, Water Supply Department (ext. 6787)**

Dean Powell, Acting Director, Water Supply Department, presented information on the Consumptive Use Permit (CUP) Program. Mr. Powell reported on issues for permitting multiple sources and over-lap of water sources for consumptive use permits. Mr. Powell explained a policy recommendation will be requested from the Board in the future. This issue, however, will be workshopped with water uses in the coming months and be brought back to the Board for policy discussion and decision.

Ms. Wehle commented on the challenges faced by Collier County and Southeast Florida Utility Council (SEFLUC) in delivering good quality water because of changes to water quality standards. She said there needs to be a consistent policy from the Board to communicate what is acceptable. There will be an opportunity for the utilities to appear before the Board to discuss the challenges in treatment and delivery of water to the customer.

Mr. Montgomery commented on the individualized challenges each utility faces and suggested educating the Board on these challenges/processes in order to adopt a policy.

Mr. Rooney requested there be consistency and fairness with the process.

Public Comment: Nat Nason, Seacoast Utility Authority, reported on Seacoast's nanofiltration process, and said he appreciates participating in these discussions.

Public Comment: Paul Mattausch, Collier County Public Utilities, invited the Board to visit their Reverse Osmosis Treatment facility. He reported on seasonal changes and water resource availability and potential environmental impacts of withdrawals.

David Brown, Utilities Director, Jupiter, provided background information on the water supply sources in Jupiter, their desalinization plant and utilizing multiple water resources for flexibility in balancing weather conditions and environmental needs to protect the local water resources. He explained to the Board the nanofiltration process.

Public Comment: Lisa Wilson Davis, City of Boca Raton, SEFLUC, commented on the individualized challenges of each utility in order to manage their water systems and said this is an important issue and looks forward to working with the District.

Ms. Wehle said she would like permitting staff and the Governing Board members to visit the local water utilities to provide an understanding of the different water treatment processes, the constraints and challenges and the business side of producing and distributing potable water.

**47. Natural Systems - Relationship to Water Use Permitting - Anita Bain, Director, Environmental Resource Permitting Division (ext. 6866)**

Anita Bain, Director, Environmental Resource Permitting Division, presented background information from a Workshop discussion with the Board in July 2009 on wetlands and consumptive use permitting. Since that time, there has been a team effort to compare Consumptive Use Permitting (CUP) to Environmental Resource Permitting (ERP) Wetlands Program for consistency by reviewing existing permits/rules and ongoing issues. There will be a public forum to solicit feedback and staff will be working toward policy recommendations for the Governing Board. Ms. Bain reported on the history of the District's rule for consumptive use and wetlands and also explained the basis of review for wetland harm.

Mr. Collins commented on the challenges with permits that have been in place for many years and trying to determine wetland harm during the permit renewal process.

Mr. Montgomery said this is a very complicated but important issue. The Board will need to have a high level of understanding to create policy direction.

Public Comment: Rosa Durando, citizen, commented on the decrease in wetlands, Briger Tract and wetlands protection.

Public Comment: Nat Nason, Seacoast Utility Authority, commented on the permit renewal process and fairness. In order to preserve the wetlands, he explained baselines and monitoring need to be established. The issue is past harm and having the customers pay for it which is not a clear cut issue.

Public Comment: Paul Mattausch, Collier County, has concerns about penalizing his utility for historic wetland impacts and requested the process be in place to appropriately identify historic impacts that are unrelated to the District's water use permit.

Public Comment: Lisa Wilson Davis, SEFLUC, commented on the issues being addressed by the utilities and said they want to be treated fairly.

## Discussion Agenda

### **Everglades Restoration and Capital Projects**

48. **2010-621** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 240-day contract with Lucas Marine Construction, LLC, the lowest responsive and responsible bidder from the District's pre-qualified firms, for construction of Compartment B Buildout Stormwater Treatment Area G-434 and G-435 Pump Stations' concrete bridges in an amount not to exceed \$1,879,000 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$95,449 are budgeted and the remainder is subject to Governing Board approval of the FY11 budget; providing an effective date. (Contract Number 4600002142) (John Mitnik, ext. 3748)

No presentation provided.

Motion made by Jerry Montgomery, seconded by Joe Collins to Approve the following item(s): 48

Vote called. Voting yes: Jerry Montgomery, Joe Collins, Sandy Batchelor, Eric Buermann, Kevin Powers, Patrick Rooney, Glenn Waldman. Not present: Charles Dauray, Shannon Estenoz. Motion passed.

### **Executive Office**

- 30. 2010-613** A Resolution of the Governing Board of the South Florida Water Management District authorizing intervention or participation as amicus curiae in two lawsuits pending before the United States District Court for the District of Columbia: *New Hope Power Company v. U. S. Army Corps of Engineers, Case No. 09-cv-02413* and *American Ram Bureau Federation v. U. S. Army Corps of Engineers, Case No. 10-cv-00489*. (Jim Nutt, ext. 6253)

This item was deferred until next month.

- 32. 2010-615** Any action associated with implementation of SB 550's provisions concerning discretionary Board authority to delegate the consumptive use permit program to the Executive Director, which may include a Resolution of the Governing Board of the South Florida Water Management District amending Section 101-41 of the District Policies Code relating to agency administration. (Beth Ross, ext. 6257)

Continuing the discussion from yesterday, Robert M. Brown, Director, Environmental Resource Regulation, presented the options to the Board. They were as follows:

- 1) Current process - all water use except for denials, delegated to Executive Director.
- 2) Current process with authority to elevate - delegate all water use final actions (permit approval) with authority to Executive Director to elevate a final action to Governing Board at her discretion.
- 3) Restore pre-SB2080 process.
  - a) Water use individual permits (>15 MGD) require final action by the Governing Board.
  - b) Water use general permits issued at staff level.

Chair Buermann commented on the proper role of the Board's responsibilities and delegations of the permit process and his concerns about the future scenarios. He would like the Governing Board to restore the duties prior to SB2080 (Option #3).

Mr. Montgomery said, based on the discussions at yesterday's Governing Board Workshop, and the Governing Board having the right to change the process in the future, he supports no changes to the process (Option #1).

Ms. Estenoz requested revisiting the issue because she would like the public to have significant input in the process and stated the legislature has now given the public another chance to provide input.

Mr. Dauray commented about the public process and supports the pre-SB2080 process (Option #3).

Mr. Powers said he takes comfort in knowing the current process provides better public input and the Board also has the ability to revisit the process, if needed. He supports no changes to the process (Option #1).

Mr. Collins said the process has improved and supports no changes to the process (Option #1).

Mr. Rooney also supports no changes to the process because he thinks the new process is working and there is the option to revisit the process at any time.

Mr. Waldman said it seems that Option 2 affords more discretion to the Executive Director than Option 1, but would also support Option 1.

Ms. Wehle explained the permitting process and the public's ability to provide input for these permits.

Ms. Batchelor said she supports Options 2 or 3 because of the flexibility of the process.

Public Comment: Eric Draper, Audubon of Florida, commented on the water resources, addressing policy discussions and giving staff policy direction. He said the Board needs to be involved in these decisions and there needs to be constant oversight over public officials.

Public Comment: Alex Larsen, citizen, commented on the Scripps permit. The public needs to be involved with the permit issues and discussions. She also commented on the confusion of the agendas.

Public Comment: Martha Musgrove, citizen, opposed the legislature taking away the authority from the Board and delegating it to the Executive Director. She commented on the water issues in Mr. Montgomery's jurisdiction and said these issues come under consumptive use. She supports the Board taking the delegation authority back.

Public Comment: Sharon Waite, citizen, has a problem with attaining backup materials regarding these permits. She supports the Board approving the permits.

Ms. Estenoz requested a legal opinion regarding the phrase in the bill about "Board Intervention" by Governing Board members on permits and whether a permit can be put on the agenda for discussion.

Ms. Wood will provide a legal opinion regarding intervention by individual Governing Board members in permitting related issues as a result of Senate Bill 550.

Motion made by Kevin Powers, seconded by Joe Collins to support the current process: all water use except for denials, delegated to Executive Director (Option 1). Vote called. Voting yes: Kevin Powers, Joe Collins, Patrick Rooney, Jerry Montgomery, Glenn Waldman. Voting no: Sandy Batchelor, Charles Dauray, Eric Buermann, and Shannon Estenoz. Motion Passed.

## **Regulatory and Public Affairs**

- 49.** Enter an Order authorizing a one year pilot project by the City of West Palm Beach for the temporary interception and storage of tidal discharges from C-51 Canal. (Terrie Bates, ext. 6952)

No presentation provided.

Public Comment: Rosa Durando, citizen, commented on the maximum water storage capacity in the area.

Motion made by Patrick Rooney, seconded by Joe Collins to Approve the following item(s): 49

Vote called. Voting yes: Patrick Rooney, Joe Collins, Sandy Batchelor, Eric Buermann, Jerry Montgomery, Kevin Powers, Glenn Waldman. Not present: Charles Dauray, Shannon Estenoz. Motion passed.

## **Corporate Resources**

- 50. 2010-622** A Resolution of the Governing Board of the South Florida Water Management District to authorize approval of a three year lease agreement with Dell Marketing L.P. the lowest responsive quote using State Of Florida Contract #250-040-08-01 for personal computer leasing in an amount not to exceed \$4,500,000 of which \$147,500 of ad valorem funds are budgeted in FY10, and the remainder is subject to Governing Board approval of the FY11-13 Budgets; providing an effective date. (RFQ 6000000350) (Sharon Trost, ext. 6214)

No presentation provided.

Motion made by Jerry Montgomery, seconded by Joe Collins to Approve the following item(s): 50

Vote called. Voting yes: Jerry Montgomery, Joe Collins, Sandy Batchelor, Eric Buermann, Kevin Powers, Patrick Rooney, Glenn Waldman. Not present: Charles Dauray, Shannon Estenoz. Motion passed.

**51. Public Comment**

- Regulatory Policy Issues
- General Public Comment

No public comment.

**Staff Reports**

**52. General Counsel Report - Sheryl Wood**

Sheryl Wood, General Counsel, reported on the Office of Counsel activities. There were four petitions filed: Palm Beach County Environmental Coalition v. SFWMD, Port of Islands Hotel v. SFWMD (Collier County), Tory and Thomas v. SFWMD (Palm Beach County) and Citizens for Smart Growth, Kathie Smith and Odias Smith v. SFWMD, FDOT, (Martin County).

**53. Executive Director's Report - Carol Wehle**

- Report on Permits Issued by Authority Delegated to Executive Director from May 1 to May 31, 2010

Ms. Wehle said staff will coordinate tours of the local utilities for a better understanding of the different water treatment processes, constraints and challenges the utilities are facing.

Ms. Wehle recognized Tommy Strowd as Deputy Executive Director of Operations & Maintenance and Tom Teets, Assistant Deputy Executive Director, Everglades Restoration & Capital Projects.

**54. Board Comment**

There was no Board comment.

**Adjournment**

**59. Adjourn**

Chair Buermann adjourned the meeting at 3:00 p.m.

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Eric Buermann  
Governing Board Chairman  
South Florida Water Management District Governing Board

Recorded By:

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Cathy Widness  
Administrative Assistant Senior  
Governing Board and Executive Services  
SFWMD

Motion made by Jerry Montgomery, seconded by Joe Collins to Approve the following item(s): 59

Vote called. Voting yes: Jerry Montgomery, Joe Collins, Sandy Batchelor, Eric Buermann, Kevin Powers, Patrick Rooney, Glenn Waldman. Not present: Charles Dauray, Shannon Estenoz. Motion passed.